IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.122 OF 1998

Valibai Daya Bukelia .. Petitioner.

Verus.

Municipal Corporation of Gr.Mumbai and Ors. .. Respondents.

Mr.Dhananjay Ha**lwai i/b Mr. M.P. V**ashi for the petitioner.

Mr.Vinod Mahadi**k for respondent**.

CORAM: R.M.S.KHANDEPARKAR &
V.M.KANADE,JJ.
DATE : SEPTEMBER 27, 2005.

-ORAL JUDGEMENT (PER R.M.S.KHANDEPARKAR,J)-

1. Heard. By present petition, the grievance of the petitioner is against the demolition of her hut which was allegedly constructed in the government land in possession of police department at Andheri. The contention of the petitioner is that the same was demolished without issuing any show cause notice and in high handed manner. It is the case of the petitioner that while she was employed by the police personnel as a Sweeper, she was allowed to construct a hut in the area in possession of police department at Andheri. However, without any reason and justification, the respondent

demolished the same and that too without issuing any prior notice and without authority. On the other hand, it is the case of the respondent that no such land was allowed for construction of any hut to the petitioner, nor she was allowed to construct any hut by any authority. She herself used to illegally construct the hut and on many occasions it was demolished and inspite of warnings, she used to construct the hut again and again in the same place, which was demolished in due course of process. Due action was taken by the authority against the illegal construction upon her. It is seen that the petitioner is neither an employee of government nor there was any allotment of any land for construction of hut on the government land at Andheri. Merely because petitioner had been employed as a Sweeper by the families of police personnel, that would not entitled the petitioner to illegally tresspass in government land and to construct the hut and in case any such attempt is made, the respondent would be lawfully entitled to remove such encroachment.

2. It is also pertinent to note that the respondent have filed an affidavit disclosing the fact that the petitioner has her own house at Sai Baba chawl, room Nos.

6 and 7 Azad Road near Vile Parle Raiwlay Crossing Gate, Vile Parle (E) and she has been residing in the said house with her son Arjun. Room No. 6 is in the name of Mahesh Deyabhai Bukelia who is her son and room no.7 is in the name of Maniben Arjun Bukelia, daughter in law of the petitioner. Another son by name Mahesh resides at Vile Parle house. While another son by name Devsi resides at Santosh Nagar, Goregaon , Mumbai. It has also been stated in the affidavit that there has been no allotment of any land for erection of hut by the petitioner in any part of the area of police department at Andheri. In the facts and circumstances, therefore, no case is made out for interference. In absence of any right disclosed in favour of the petitioner and construction not being done lawfully by the petitioner, merely because the respondents have demolished the same without prior intimation, that would not warrant the petitioner to have right on that land, and more particularly, considering the facts disclosed by respondent in the petition. Undisputedly, the petitioner has her own house. Even assuming that there is some irregularity in the process of demolition of structure, no interference in the matter is required and grant of relief would amount to encouraging illegality on the part

of the petitioner and certainly therefore, such a relief cannot be granted in Writ jurisdiction. No case is

made out for interference, therefore, the petition is dismissed. Rule stands discharged. No order as to cost.

(R.M.S.KHANDEPARKAR,J)

(V.M.KANADE,J)